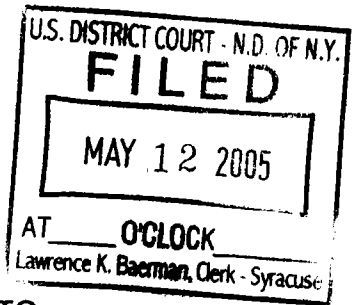


UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK



Octavio Rivera Plaintiff(s)

vs.

New York State Police, Wilton, N.Y.
Saratoga County Sheriff Defendant(s)
Department

INMATE
CIVIL
RIGHTS
COMPLAINT
PURSUANT TO
42 U.S.C. § 1983

Civil Case No.: 1:05cv603

Plaintiff(s) in the above-captioned action, allege(s) as follows:

JURISDICTION

1. This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4) and 2201.

PARTIES

2. Plaintiff: Octavio Rivera
Address: Saratoga County Jail
6010 County Farm Road
Ballston Spa, N.Y. 12020
B-1-206

Additional Plaintiffs may be added on a separate sheet of paper.

3. a. Defendant: New York State Police
Official Position: State Police
Address: New York State Trooper Barracks
301 Ballard Road
Wilton, New York 12831

b. Defendant: Saratoga County Sherriff Dept
Official Position: County Police

Address: 6010 County farm Road
Ballston Spa, New York 12020

c. Defendant: _____
Official Position: _____

Address: _____

Additional Defendants may be added on a separate sheet of paper.

4. **PLACE OF PRESENT CONFINEMENT**

a. Is there a prisoner grievance procedure at this facility?

(☒) Yes () No

b. If your answer to 4(a) is YES, did you present the facts relating to your complaint in this grievance program?

() Yes (☒) No

If your answer to 4(b) is YES:

(i) What steps did you take?

(ii) What was the final result of your grievance?

If your answer to 4(b) is NO:

Why did you choose to not present the facts relating to your complaint in the prison's grievance program?

N/A

- c. If there is no grievance procedure in your institution, did you complain to prison authorities about the facts alleged in your complaint?

() Yes

() No

N/A

If your answer to 4(c) is YES:

- (i) What steps did you take?

N/A

- (ii) What was the final result regarding your complaint?

N/A

If your answer to 4(c) is NO:

Why did you choose to not complain about the facts relating to your complaint in such prison?

N/A

5.

PREVIOUS LAWSUITS

- a. Have you ever filed any other lawsuits in any state and federal court relating to your imprisonment?

() Yes

(✓) No

- b. If your answer to 5(a) is YES you must describe any and all lawsuits, currently pending or closed, in the space provided on the next page.

For **EACH** such lawsuit, provide the following information:

i. Parties to previous lawsuit:

Plaintiffs:

Defendants:

ii. Court (if federal court, name District; if state court, name County):

iii. Docket number: _____

iv. Name of Judge to whom case was assigned:

v. Disposition (dismissed? on appeal? still pending?)

vi. Approximate date of filing prior lawsuit:

vii. Approximate date of disposition:

6.

FACTS

Set forth the facts of your case which substantiate your claim of violation of your civil and/or Constitutional rights. List the events in the order they happened, naming defendants involved, dates and places.

Note: You must include allegations of wrongful conduct as to EACH and EVERY defendant in your complaint. (You may use additional sheets as necessary.)

ON or About Feb. 24, 2005 I was being chased by The
New York State Police and the Saratoga County Sheriff's. When I
decided to pull over and stopped the vehicle I was in The
State police hit the vehicle from behind. I then slid
hitting a State Police car and ended in a ditch. The
Officer or Officers began to shoot there service weapons
in my direction. My Question is why, I did not resist Arrest.
Then one officer Threaten my life by stating to me 'Give me

one reason to kill you." by doing so, I believe that the officers misused and Abuse their official Positions as State + County employees by bringing grave risk of Death not only to me but anyone else who could have come in path of shots. I was Afraid for my life from that point on even when They interrogated me.

7.

CAUSES OF ACTION

Note: You must clearly state each cause of action you assert in this lawsuit.

FIRST CAUSE OF ACTION

In my understanding of LAW, I believe that Excessive force is The Fact in my Claim. Officer's fired there service weapons in my direction, which caused A grave risk of Death. Also hit me on head with blunt objects and there is no record of me resisting Arrest.

SECOND CAUSE OF ACTION

Officer walked up to me and looking in my eyes, Stated "Give me one good reason ~~for~~ to kill you." Unacceptable behavior while serving the community. Then After I complained About what was said to me, The Investigator down play by saying to me. "You know how officer get Rode up during A chase. Not an excuse.

THIRD CAUSE OF ACTION

8. Plaintiff(s) demand(s) a trial by
Jury -or- Court
(Circle only one).

9. PRAYER FOR RELIEF

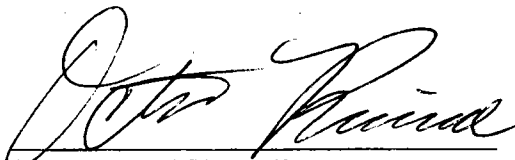
WHEREFORE, plaintiff(s) request(s) that this Court grant the following relief:

I'm seeking monetary Compensation for the physical Abuse as well as the mental Anguish that I am experiencing; CAUSE of the misconduct Committed by both Agency under "Color of LAW". I Also would like A Thorough investigation in my Allegations.

I declare under penalty of perjury that the foregoing is true and correct.

DATED:

04/25/05



Signature of Plaintiff(s)
(all Plaintiffs must sign)

04/14/05

To whom it may concern

On or about 24th day of February 2005 I Octavio Rivera was sitting in a bar called The Publick House on route 9 in Malta; N.Y.

I was drinking alot of bacardi and coke; and I over did my limitation. I asked the bartender to call me a cab. I then proceeded to the front of the bar to wait for the cab.

A woman who I do not know; parked her car and left it running with the lights on. I then without any rational thought entered her car and proceeded to drive away.

At that very moment she appeared and began to yell; "my car"; I then drove away and headed on to the northway. I was speeding and the State Police began a pursuit. I decided to pull over and give myself up when everything hit the fan. The state police hit the car I was driving when I entered the U turn median which made the car I was in spin out of control. Which then hit the state police car in return.

The car I was in continue to move until it slid into a ditch. Then a state trooper Sgt. positioned himself in front of the car I was in with his service weapon drawn. He proceeded to direct me to his commands. Then shots were fired in the direction of the car I was in. The Sgt. startled by the shots jumped to the side and yelled "hey what the fuck hold your fire".

The Sgt. then directed me to step out of the car when another officer hit me in the head with a blunt object while yelling "where is the baby asshole" twice. The officer then handcuffed my hands and walked me to a nearby police car. At this time a officer with glasses stated to me in my eyes "give me one good reason to kill you fucker".

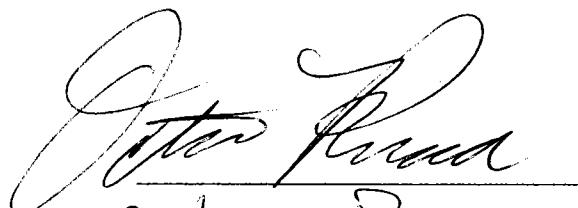
So he placed me in his police car. I noticed what seemed like a disagreement between three officers; one being the one who wore glasses. The other two officer then opened the door to the police car I was in and pulled me out to rush me to there car. they then took me to the state troopers barracks in Wilton/N.Y. .

When I arrived there I was handcuffed to a wall ring. I waited there until Investigator or Purchar and a black officer in plain clothes directed a officer to take me into an interrogation room. There both of them questioned me about what I heard at the arrest scene. I then explained in detail what I felt about the way I was Apprehended. Inv. Purchar said to me about the officer's threat; "you know how it is when officers get rode up during a chase". I said; yaah I know what you mean; but that does not justify the officers behavior. HE Inv. Purchar then told me that the officers were shooting at the tires because they seen the tires spinning. But I was stuck in a ditch with no chance of moving the car if I wanted to. My rights —

Pg two

were read to me four times. I told the officers that I wanted to exercise my right to remain silent because I know how important it is in a legal matter. Inv. Purchar responded by saying; "you are going to talk to us. I said "I am " he then said "oh yeah you will tell us what happen. At that point he left the room and then came back with the biggest officer I have seen yet. The officer stood over me as an intimidation tactic. So I decided to tell the Inv. what he wanted me to say; because I was shot at; I was threaten and I felted that if I did not say something I could of ended up with more charges if they decided to say that in the process of interrogation I struck an officer. So to not further give them ammo to have I made a unwilling statement. Mind you that statement was made by officer Purchar on his computer. He said to me that he has to type exactly what I relate to him. When I looked at the final statement I sign it because I was going to challenge the accuratcy. Inv. Purchar did not use the exact words I related to him. I then told them that I was going to get someone to Investigate my allegations as to the reckless misconduct for using deadly force upon my arrest. I was then taken out the room to perform a sobriety test which I comlied and failed. Then I was Finger printed for charges. I was not informed about until I went to see the judge. I was then taken to see the judge in wilton n.y. who placed me in the custody of the sherrif department.

This statement is true I made in all honesty without holding back as to my actions under the influence of alcohol. What I did was careless but I know I dont do things of this nature unless it is indused by drugs or alcohol. I am truely sorry and I am willing to except my punishment. I say I don't need 15yrs in prison what I do need is help because for the first time in my 35yrs I can say I have a problem with a substance that has been with me since I was a child. I want to also say that I did not assault anyone and I have not forced no one out of there possessions. What I did do without a shadow of a doubt is took a car without the owners consent,


 Octavio Rivera
 OR

04/19/95